

BILL LOCKYER, Attorney General
of the State of California
E. A. JONES III, State Bar No. 71375
Deputy Attorney General
ELAINE GYURKO
Senior Legal Analyst
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, California 90013
Telephone: (213) 897-4944
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke Probation
Against:

TEKA T. KIDANU
10511 Lindley Avenue, Apt. #121
Northridge, California 91326

Respiratory Care Practitioner License No. 15066

Respondent.

Case No. R-2035

**PETITION TO REVOKE
PROBATION**

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about March 25, 1992, the Respiratory Care Board issued Respiratory Care Practitioner License No. 15066 to Teka T. Kidanu (Respondent). On April 2, 2005, pursuant to Welfare and Institutions Code Section 11350.6, respondent was issued a 150 day temporary license which would expire on July 2, 2005. The license was removed from temporary status on April 25, 2005, and will expire on November 30, 2007, unless renewed.

3. In a disciplinary action entitled "In the Matter of the Accusation Against

1 Teka Teferra Kidanu,” Case No. R-1952, the Board issued a decision effective January 31, 2005,
2 in which respondent's license was revoked. However, the revocation was stayed and respondent's
3 license was placed on probation for two (2) years with certain terms and conditions. A copy of
4 that decision is attached as Exhibit A and is incorporated herein by reference.

5 JURISDICTION

6 4. This Petition to Revoke Probation is brought before the Respiratory Care
7 Board (Board), Department of Consumer Affairs, under the authority of the following laws. All
8 section references are to the Business and Professions Code unless otherwise indicated.

9 5. Section 3710 of the Code states: “The Respiratory Care Board of
10 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3,
11 the Respiratory Care Practice Act].”

12 6. Section 3718 of the Code states: “The board shall issue, deny, suspend, and
13 revoke licenses to practice respiratory care as provided in this chapter.”

14 7. Section 3754 of the Code states: “The board may deny an application for,
15 or issue with terms and conditions, or suspend or revoke, or impose probationary conditions upon,
16 a license in any decision made after a hearing, as provided in Section 3753.”

17 COST RECOVERY

18 8. Section 3753.5, subdivision (a) of the Code states:
19 “In any order issued in resolution of a disciplinary proceeding before the board, the
20 board or the administrative law judge may direct any practitioner or applicant found to have
21 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
22 investigation and prosecution of the case.”

23 9. Section 3753.7 of the Code states:
24 “For purposes of the Respiratory Care Practice Act, costs of prosecution shall
25 include attorney general or other prosecuting attorney fees, expert witness fees, and other
26 administrative, filing, and service fees.”

27 10. Section 3753.1, subdivision (a) of the Code states:
28 “An administrative disciplinary decision imposing terms of probation may include,

1 among other things, a requirement that the licensee-probationer pay the monetary costs associated
2 with monitoring the probation.”

3 FIRST CAUSE TO REVOKE PROBATION

4 (Probation Monitoring Program)

5 11. At all times after the effective date of Respondent’s probation, Condition 8
6 stated:

7 Respondent shall comply with requirements of the Board appointed probation
8 monitoring program, and shall, upon reasonable request, report to or appear to a local
9 venue as directed.

10 Respondent shall claim all certified mail issued by the Board, respond to all notices
11 of reasonable requests timely, and submit Annual Reports, Identification Update reports or
12 other reports similar in nature, as requested and directed by the Board or its representative.

13 Respondent is encouraged to contact the Board’s Probation Program at any time he
14 has a question or concern regarding his terms and conditions of probation.

15 Failure to appear for any scheduled meeting or examination, or cooperate with the
16 requirements of the program, including timely submission of requested information, shall
17 constitute a violation of probation and will result in the filing of an accusation and/or a
18 petition to revoke probation against Respondent’s respiratory care practitioner license.

19 12. Respondent’s probation is subject to revocation because he failed to comply
20 with Probation Condition 8, referenced above. The facts and circumstances regarding this
21 violation are as follows:

22 As part of respondent’s random drug testing program, he was required to telephone
23 Compass Vision, Inc. (CVI) on a daily basis to determine if he needed to provide a specimen for
24 testing and analysis. Respondent failed to telephone CVI on December 3 and 14, 2005, and on all
25 dates on and after January 12, 2006.

26 ///

27 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

3
4

5
6
7
8
9

10
11
12

13
14
15
16
17

18
19
20
21

22

23

24

25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3
4

5
6
7
8

9
10
11
12

13
14
15

16
17
18

19
20

21
22
23

24
25
26
27
28

1 FOURTH CAUSE TO REVOKE PROBATION

2 (Obey All Laws)

3 17. At all times after the effective date of Respondent's probation, Condition 6
4 stated:

5 Respondent shall obey all laws, whether federal, state, or local. Respondent shall
6 also obey all regulations governing the practice of respiratory care in California.

7 Respondent shall notify the Board in writing within 14 days of any incident
8 resulting in his arrest, or charges filed against, or a citation issued against Respondent.

9 18. Respondent's probation is subject to revocation because he failed to comply
10 with Probation Condition 6, referenced above. The facts and circumstances regarding this
11 violation are as follows:

12 At a hearing on April 4, 2005, respondent was found to be in violation of his
13 criminal probation in Los Angeles County Superior Court Case No. 3NE02969. The court
14 revoked and reinstated his probation. He was ordered to serve 120 days in county jail with credit
15 for 12 days. The court's prior order for community service was vacated. Respondent was
16 admonished to complete his domestic violence counseling program.

17 FIFTH CAUSE TO REVOKE PROBATION

18 (Probation Monitoring Costs)

19 19. At all times after the effective date of Respondent's probation, Condition 9
20 stated:

21 All costs incurred for probation monitoring during the entire probation shall be paid
22 by the Respondent. The monthly cost may be adjusted as expenses are reduced or
23 increased. Respondent's failure to comply with all terms and conditions may also cause
24 this amount to be increased.

25 All payments for costs are to be sent directly to the Respiratory Care Board and
26 must be received by the date(s) specified. (Periods of tolling will not toll the probation
27 monitoring costs incurred.)

28 If Respondent is unable to submit costs for any month, he shall be required instead

1 to submit an explanation of why he is unable to submit the costs, and the date(s) he will be
2 able to submit the costs including payment amount(s). Supporting documentation and
3 evidence of why the Respondent is unable to make such payment(s) must accompany this
4 submission.

5 Respondent understands that failure to submit costs timely is a violation of
6 probation and submission of evidence demonstrating financial hardship does not preclude
7 the Board from pursuing further disciplinary action. However, Respondent understands
8 providing evidence and supporting documentation of financial hardship may delay further
9 disciplinary action.

10 In addition to any other disciplinary action taken by the Board, an unrestricted
11 license will not be issued at the end of the probationary period and the respiratory care
12 practitioner license will not be renewed, until such time all probation monitoring costs have
13 been paid.

14 The filing of bankruptcy by Respondent shall not relieve the Respondent of his
15 responsibility to reimburse the Board for costs incurred.

16 20. Respondent's probation is subject to revocation because he failed to comply
17 with Probation Condition 9, referenced above. The facts and circumstances regarding this
18 violation are as follows:

19 Respondent is delinquent in his probation monitoring costs in the amount of
20 \$500.00 through May 31, 2006.

21 SIXTH CAUSE TO REVOKE PROBATION

22 (Cost Recovery)

23 21. At all times after the effective date of Respondent's probation, Condition 13
24 stated:

25 Respondent shall pay to the Board a sum not to exceed the costs of the
26 investigation and prosecution of this case. That sum shall be \$1,319.50 and shall be paid in
27 full directly to the Board, in equal quarterly payments, within one (1) year from the
28 effective date of this decision. Cost recovery will not be tolled.

1 If Respondent is unable to submit costs timely, he shall be required instead to
2 submit an explanation of why he is unable to submit these costs in part or in entirety, and
3 the date(s) he will be able to submit the costs including payment amount(s). Supporting
4 documentation and evidence of why the Respondent is unable to make such payment(s)
5 must accompany this submission.

6 Respondent understands that failure to submit costs timely is a violation of
7 probation, and submission of evidence demonstrating financial hardship does not preclude
8 the Board from pursuing further disciplinary action. However, Respondent understands
9 that providing evidence and supporting documentation of financial hardship may delay
10 further disciplinary action.

11 Consideration to financial hardship will not be given should Respondent violate this
12 term and condition, unless an unexpected AND unavoidable hardship is established from
13 the date of this order to the date payment(s) is due.

14 The filing of bankruptcy by the Respondent shall not relieve the Respondent of his
15 responsibility to reimburse the Board for these costs.

16 22. Respondent's probation is subject to revocation because he failed to comply
17 with Probation Condition 13, referenced above. The facts and circumstances regarding this
18 violation are as follows:

19 Respondent is delinquent in his cost recovery in the amount of \$919.50.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein
22 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

23 1. Revoking the probation that was granted by the Respiratory Care Board of
24 California in Case No. R-1952;

25 2. Revoking or suspending Respiratory Care Practitioner License No. 15066
26 issued to Teka T. Kidanu;

27 3. Ordering Teka T. Kidanu to pay the Respiratory Care Board the costs of
28 the investigation and enforcement of this case, and if probation is continued or extended, the costs

1 of probation monitoring;

2 4. Taking such other and further action as deemed necessary and proper.

3 DATED: June 28, 2006

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Original signed by Liane Zimmerman for: _____
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant